

**CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
January 20, 2004
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard**

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

(Pursuant to Government Code Section 54957)

Title: City Manager

2. CONFERENCE WITH LABOR NEGOTIATOR

(Pursuant to Government Code Section 54957.6)

Unrepresented Employee: City Manager

3. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN Nos. 86-12-015, 86-12-016, and 86-12-020

Negotiating Party: Milpitas Redevelopment Agency

Under Negotiation: Terms and Conditions for Acquisition of Property

4. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to Government Code Section 54956.9[a])

Title: Milpitas v. Turner Construction et al.

Santa Clara County Superior Court Case No. CV008400

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. APPROVAL OF MINUTES: January 6, 2004

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS

Commendations:

- Paul Anthony Espinoza, Eagle Scout
- Don Ryan, Lion of the Year
- Carmen Montano, recipient of the 2004 Good Neighbor Award by Dr. Martin Luther King, Jr., Association of Santa Clara County
- Alice Elizabeth Merritt, recipient of the 2004 Good Neighbor Award by Dr. Martin Luther King, Jr., Association of Santa Clara County
- Dr. Martin Luther King, Jr., Association of Santa Clara County, contributions to the community

Proclamation:

- Dr. Martin Luther King, Jr., Day

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

IX. ANNOUNCEMENTS

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items with Asterisks)

XII. PUBLIC HEARINGS

1. **Weed Abatement Hearing and Adoption of Resolution Ordering Abatement Program (Staff Contact: Patti Joki, 586-3370)**
2. **Approve Appropriation and Budget Change From: 2003 Citizen Options for Public Safety Grant (COPS): (Staff Contact: Dennis Graham, 586-2400)**

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: January 6, 2004

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

***RA5. Review Progress Report on Project Closeout: Approve Release of Retention: Civic Center (Project No. 8026) (Staff Contact: Greg Armendariz, 586-3220)**

RA6. Approve Budget Appropriations and Transfers for FY 03-04 Mid-Year Budget Modifications (Staff Contact: Emma Karlen, 586-3145)

RA7. City of Milpitas Financial Status Report For The Six Months Ended December 31, 2003 (Staff Contact: Emma Karlen, 586-3145)

RA8. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS (None)

XV. UNFINISHED BUSINESS

- *3. Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)**

XVI. NEW BUSINESS

- *4. Approve Mid-Year Review of Spay/Neuter Voucher Program (Staff Contact: Felix Reliford, 586-3071)**
- *5. Adopt Updated Bikeway Master Plan (Staff Contact: Janice Nadal, 586-3291)**
- *6. Approve Marquee Request: Marilyn Hay (Staff Contact: Jennifer Tagalog, 586-3206)**
- *7. Approve Milpitas Relay for Life Request for Fee Waiver and In-Kind Donation of Equipment, Supplies, and Staffing for the 2004 Relay for Life Event at the Milpitas Sports Center (Staff Contact: Kerrilyn Ely, 586-3231)**

XVII. ORDINANCES (None)

XVIII. RESOLUTIONS

- *8. Designate 2002 Park Bond (Proposition 40) Funds for Athletic Court Rehabilitation and Adopt Resolutions Authorizing Grant Applications (Staff Contact: Blair King, 586-3060)**
- *9. Adopt Resolution Authorizing Execution of the Program Supplemental Agreement No. M 001 to Administering Agency-State Agreement No. 04-5314 for Berryessa Creek Trail, Reach 3 (Project No. 5074) (Staff Contact: Carol Randisi, 586-2601)**
- *10. Adopt Resolution Granting Initial Acceptance: SBWR M-2/M-3 (Project No. 6093) (Staff Contact: Joe Ezeokeke, 586-3316)**

XIX. BIDS AND CONTRACTS

- 11. Approve Consultant Agreement with Thomas Shanks Consulting to Prepare and Implement an Ethics Program, Including Training for City Council Candidates, Elected Officials, Commissioners, and Senior Management Staff (Staff Contacts: Tambri Heyden, 586-3280 and Steve Mattas, 586-3040)**
- *12. Approve Agreement Amendment and Budget Appropriation: Carollo Engineers, Well Upgrade Project (Project No. 7076) (Staff Contact: Steve Erickson, 586-3317)**
- *13. Approve Agreement to Provide Technical Consulting Services to the Central Contra Costa Sanitary District (Staff Contact: Bill Marion, 586-2701)**
- *14. Approve Agreement with Towill Inc. for Update of the City Aerial Orthophoto (Staff Contact: Bill Marion, 586-2701)**

XX. CLAIMS AND DEMANDS (None)

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 3, 2004, AT 7:00 P.M.**

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Summary of Contents
Milpitas City Council Meeting
January 20, 2004
6:00 p.m. Closed Session
7:00 p.m. Public Business
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XII. PUBLIC HEARINGS

1. WEED ABATEMENT HEARING AND ADOPTION OF RESOLUTION ORDERING ABATEMENT PROGRAM (STAFF CONTACT: PATTI JOKI, 586-3370)

BACKGROUND: At its meeting of December 16, 2003, the Council adopted Resolution No. 7371 declaring weeds on certain described properties to be a public nuisance and setting a public hearing for January 20, 2004. A copy of Resolution No. 7371 was forwarded to the Santa Clara County Fire Marshal. A notice of Public Hearing was subsequently published and property owners were mailed a notice of the proposed abatement by the Santa Clara County Fire Marshal. The purpose of the public hearing is for property owners who object to the removal of the weeds to state their objections before the weeds are removed and the costs made a lien upon the property. A list of properties to be abated is included in the Council's agenda packet along with a resolution directing the County Fire Marshal to abate the weeds.

RECOMMENDATION:

1. Close the public hearing.
2. Adopt resolution ordering the County Fire Marshal to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

2. APPROVE APPROPRIATION AND BUDGET CHANGE FROM: 2003 CITIZEN OPTIONS FOR PUBLIC SAFETY GRANT (COPS): (STAFF CONTACT: DENNIS GRAHAM, 586-2400)

BACKGROUND: The California State Legislature awarded \$100,000 to the City of Milpitas through the Citizen Options for Public Safety Grant (COPS). No city matching funds are required.

Government Code 30061 specifies that these funds must be used for front line municipal services and must supplement and not supplant existing funding for front line municipal services. These funds shall be appropriated pursuant to a written request from the Chief of Police of the law enforcement agency that provides police services for that city. The request shall indicate the front line law enforcement needs of the requesting entity including the personnel and equipment that are necessary to meet those needs.

The police staff is requesting that the designated funds be used to purchase:
New Tasers to replace obsolete Tasers; Eo Tech sites (to improve accuracy) and shoulder slings (for easier handling) for AR15 rifles; multi-channel digital video recorder to record traffic events and criminal activity at 17 major intersections; Skytrack software to improve the capability of the Investigations Unit's GPS tracking device; microphone kit for packets to improve radio transmissions and officer safety; moving radar for traffic car; night vision monocular to enhance nighttime searches; event recorder software to retrieve accident data from airbags; Kevlar gloves for cut and slash protection; crowd control bags for gas masks and filters; digital recorders for field use by detectives; 3 Motorola packets for Communications for evacuation scenarios and tactical dispatching; shirts, jackets and vests for evidence technicians during intense crime scene evidence collection; thermal imaging to help detect suspicious persons, vehicles and objects

during darkness; 15 lockers to provide additional storage of anti-terrorist protective equipment and other gear; and a sensor system to detect motion inside buildings during hostage or barricaded suspect situations.

RECOMMENDATION: Approve appropriation in the amount of \$100,000 into the police operating budget.

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: January 6, 2004

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

***RA5. REVIEW PROGRESS REPORT ON PROJECT CLOSEOUT: APPROVE RELEASE OF RETENTION: CIVIC CENTER (PROJECT NO. 8026) (STAFF CONTACT: GREG ARMENDARIZ, 586-3220)**

BACKGROUND: Royal Glass has a minor punchlist item and a warranty item outstanding. Royal has requested release of a portion of its contract retention. Staff recommends release of \$30,000 of retention, which leaves the City with \$20,000, remaining as a contract retention. This final retention will not be released until Royal completes the two work items and the Council approves initial acceptance of the contract.

The current project contingency remains at \$87,145. Included in the Council's agenda packet is a budget report prepared by the Finance department.

RECOMMENDATION: Approve release of retention in the amount of \$30,000.

RA6. APPROVE BUDGET APPROPRIATIONS AND TRANSFERS FOR FY 03-04 MID-YEAR BUDGET MODIFICATIONS (STAFF CONTACT: EMMA KARLEN, 586-3145)

BACKGROUND: To maintain conformity with the City's current budget policies that any additional appropriation to a department budget or reappropriation of monies from one fund to another must be approved by the City Council, staff has included in the Council's agenda packet the budget change form and justification memoranda from the departments for the Council's review and consideration. These modifications are requested due to changing conditions or needs, the amounts originally appropriated in the requesting department, or project budget were inadequate.

The overall fiscal impact of these budget modifications will be \$28,090,017 net reduction to the fund balances of various funds, including a reduction of \$23,193 to the General Fund unreserved, undesignated fund balance. There are sufficient balances in these funds to cover the additional appropriations. A summary of the various budget transfers and appropriations is also included. Necessary budget adjustments include the following categories:

Budget transfers between funds: \$5,974,670 is requested to be transferred from the RDA Project fund to the Housing Reserve Fund. This amount represents the Housing Fund portion of the 1997 Redevelopment Agency Tax Allocation Bond proceeds. This portion of the bond proceeds should have been recorded in the Housing Reserve Fund for better accounting and interest income allocation.

Additional budget appropriations to cover expenditures:

1. \$23,193 to Human Resources Department from the General Fund unreserved, undesignated fund balance to cover increased user fee for self-insured employers from the Department of Industrial Relations (Workers Compensation).
2. \$40,000 to Planning Department for contractual services to cover design review referrals for new development. The contractual service fees are 100% recoverable from revenue generated from the Private Job accounts.
3. \$300,000 to Finance Department RDA budget from the Redevelopment Project Fund (\$200,000) and Housing Reserve Fund (\$100,000) respectively to cover additional redevelopment and housing related consultant fees.
4. \$1,823,480 to Non-Departmental RDA Budget from the Housing Reserve Fund to pay for developer grant in accordance with an Owner Participation Agreement.
5. \$1,949,744 to Non-Departmental RDA Budget from the Redevelopment Agency Project Fund to be transferred to the Education Revenue Augmentation Fund (ERAF), a State mandated obligation.
6. \$24,000,000 to Non-Departmental RDA Budget from the 2003 Redevelopment Agency Tax Allocation Bond Fund for the purchase of Elmwood property.
7. \$40,800 to Capital Project No. 4133, Traffic Signal Modification for the installation of energy-efficient LED bulbs in traffic signals. The funding source for the appropriation is from a reimbursement grant received from the California Energy Commission.
8. \$1,568,000 to Capital Project No. 4179, Montague Expressway Widening at Great Mall Parkway. The funding source is from a developer fund received through the City of San Jose.
9. \$80,000 to Capital Project No. 8137, City Gateway Identification signs to re-open project that was closed prematurely. The original funding source was from Redevelopment Project fund.
10. \$25,000 to create new Capital Project No. 8156, Police Department Community Room to improve the acoustics. The funding source is from Redevelopment Project Fund.

Monies returned to Fund balances:

1. \$10,576 from Capital Improvement Project No. 7096, Financial Utility Master Plan to the original funding sources of Water and Sewer CIP funds, due to completion of project.
2. \$100,824 from Capital Project No. 4208, Calaveras – Piedmont- Evans Intersection Improvements to the original funding source of Street CIP Fund. Due to receipt of a State Transportation Development Act Grant, Street Fund contribution could be reduced.

RECOMMENDATION:

1. Approve the Fiscal Year 2003-04 mid-year budget transfers and appropriations as itemized in the budget change form included in the Agency/Council's agenda packet.
2. Adopt Resolutions to amend Resolution 1626, the Classification Plan.

RA7. CITY OF MILPITAS FINANCIAL STATUS REPORT FOR THE SIX MONTHS ENDED DECEMBER 31, 2003 (STAFF CONTACT: EMMA KARLEN, 586-3145)

BACKGROUND: The Finance Department will present a review of the City's financial status for the six months ended December 31, 2003.

RECOMMENDATION Note receipt and file.

RA8. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS (None)

XV. UNFINISHED BUSINESS

***3. ODOR CONTROL COMPREHENSIVE ACTION PLAN UPDATE (STAFF CONTACT: DARRYL WONG, 586-3345)**

BACKGROUND: This is an update of the odor control coordination activities. Some of the key events that have occurred during the past month include:

1. Revised outreach plan to include distribution of odor complaint guidelines to residents in the northern part of the City initially and throughout the City next summer.
2. "Beta testing" of rapid notification pilot program has been implemented to provide real time advisories of odor events to City staff and Local Enforcement Agency (LEA).
3. Staff and the City Attorney have begun analyzing potential legislative changes to make regulation of odor emanating from composting facilities more effective. In conjunction with this activity, the City Attorney has reviewed the legislative history of the bills that led to the current regulatory structure.
4. Coordinated with the LEA and BFI to accelerate implementation of best management practices to include relocation of compost processing facilities.
5. Requested, received and begun review of professional odor control advisory services proposals.

The Bay Area Air Quality Management District (BAAQMD) has reported the following number of complaints logged in October: 96, November: 50, December: 16. A draft odor control action plan is included in the Council's agenda packet.

RECOMMENDATION: Note receipt and file progress report.

XVI. NEW BUSINESS

***4. APPROVE MID-YEAR REVIEW OF SPAY/NEUTER VOUCHER PROGRAM (STAFF CONTACT: FELIX RELIFORD, 586-3071)**

BACKGROUND: At its June 3, 2003 meeting, the City Council reduced the FY 2003-2004 funding for the Spay/Neuter Program from \$40,000 to \$20,000 and directed staff to report back mid-year to determine the potential impacts from the cost reduction. At the meeting, the Council also increased the voucher fee from \$5.00 to \$30.00 to help offset the cost of the program. The fee increase was the first in the program since its 1997 inception and was similar to what other cities and counties were charging their residents for spay/neuter services.

At this mid-point in the fiscal year, total Spay/Neuter Program expenditures are \$16,000 with \$4,000 remaining for the fiscal year. A six-month assessment of the program since the budget reduction and fee increase are as follows:

- From July 1, 2002 to December 31, 2002, staff issued 517 spay/neuter vouchers as compared to 540 vouchers issued during July 1, 2003-December 31, 2003;
- The fee increase from \$5.00 to \$30.00 has helped to defray some of the cost (20%) to the city for the spay/neuter program, but as anticipated, does not offset the total cost of the funding reduction;

- City staff and the City of San Jose Animal Care and Service Division which provides contractual animal care services to the City has not experienced an increase in the number of complaints from residents regarding stray animals in their neighborhoods;
- The cost for spay/neuter veterinarian services for dogs remains substantially more expensive than for cats; and
- Numerous residents over the years have obtained as many as 15 to 20 vouchers each year to spay/neuter stray animals in their neighborhoods. While the number of vouchers issued to the same resident has assisted the city in keeping the animal population down, it more quickly exhausts funds and limits the number of vouchers available to other residents.

Staff recommends the following proposed adjustments to the program:

- Limiting the number of vouchers per household to three (3) within the program year. Approximately 35% of all vouchers are issued to residents requesting 5 or more vouchers. This limits the number of residents that are able to participate in the program.
- Maintain the current level of funding for the program. Once the funding is expended, residents would be responsible for the cost to spay/neuter their animals until the next program year. Several cities and counties have taken this approach in limiting the number of vouchers issues from previously years.

The City of San Jose's new Animal Shelter Facility on Monterey Road is planned to open Spring of 2004. Part of the Milpitas contractual agreement with the City of San Jose will be to provide sheltering and medical services for Milpitas animals. The Santa Clara Valley Humane Society will be opening their services (adoption agency only) in Milpitas in the future. Staff anticipates that once these services become available to Milpitas residents, the number of vouchers issued by the City may be slightly reduced, since both agencies are anticipated to provide spay/neuter services on-site.

RECOMMENDATION:

1. Maintain the existing funding for the Spay/Neuter Voucher Program.
2. Limit the number of vouchers issued to City households to three within the program year.

***5. ADOPT UPDATED BIKEWAY MASTER PLAN (STAFF CONTACT: JANICE NADAL, 586-3291)**

BACKGROUND: At the December 8, 2003 Bicycle Transportation Advisory Commission (BTAC), the Commission reviewed the update to the Bicycle Master Plan. The update includes specific goals relating to promoting alternative modes of transportation. The revised Plan will also be re-submitted to Caltrans for certification that it continues to meet the criteria established in the Streets and Highway Code. Regional certification for the City's Bikeway Master Plan satisfies an eligibility requirement when seeking state Bicycle Lane Account funds for public improvements. The Commission endorsed the updated plan with map and recommends City Council approval.

RECOMMENDATION: Approve the update to the Bikeway Master Plan as recommended by the Bicycle Transportation Advisory Commission.

***6. APPROVE MARQUEE REQUEST: MARILYN HAY (STAFF CONTACT: JENNIFER TAGALOG, 586-3206)**

BACKGROUND: Marilyn Hay, Library Advisory Commission Chair, has requested to use the City of Milpitas marquee as follows:

Marquee Request No. 1 (to be displayed 1/21 - 2/6)

MHS Academies
Silent Auction
February 6th
Info (408) 263-1935

Marquee Request No. 2 (to be displayed 1/21 - 3/2)

Remember to Vote
On March 2nd

Pursuant to Resolution No. 6310, Facility Use Rules and Regulations, the City Council must approve all exceptions to the Marquee Policy.

RECOMMENDATION: Approve Marilyn Hay's request to use Marquee Request No. 1 (January 21st - February 6th) and Marquee Request No. 2 (January 21st - March 2nd).

***7. APPROVE MILPITAS RELAY FOR LIFE REQUEST FOR FEE WAIVER AND IN-KIND DONATION OF EQUIPMENT, SUPPLIES, AND STAFFING FOR THE 2004 RELAY FOR LIFE EVENT AT THE MILPITAS SPORTS CENTER (STAFF CONTACT: KERRILYN ELY, 586-3231)**

BACKGROUND: For the past four years, the American Cancer Society, with the volunteer support of numerous Milpitas community members and businesses, has hosted the annual Relay for Life fundraising event at the Milpitas Sports Center.

The City of Milpitas has a long history of supporting this annual event with services, staff support and equipment on varying levels. In an effort to improve event organization and ensure clear communication between the City of Milpitas and the American Cancer Society, the Relay for Life representative has provided staff a complete list of requested items for waiver or donation for the City Council to consider for approval.

Relay for Life is requesting that City Council approve the waiver or donation of the following (staff has provided estimated costs associated with each requested item):

RECREATION SERVICES:

• Use of Football Field - June 25 to June 26	\$1,275.00
\$150.00 deposit	
\$ 960.00 rental fees (48hours @ \$20.00 per hour)	
\$15.00 application fee	
• Use of white event fencing for Kids Camp area	\$ no cost
(Volunteers pickup, set-up and return)	
• Use of Mobile Stage	\$ 970.00
\$700.00 (2 days @ 350.00per day)	
\$70.00 in part-time staff time (5 hrs @\$15.00)	
\$200.00 Towing (\$100 each way)	
• Use of two EZ –Up shade structures	<u>\$ no cost</u>
(Volunteers pickup, set-up and return)	
TOTAL RECREATION SERVICES COST	\$ 2,245.00

PARK SERVICES

- Use of Football Public Address system
- Trash cans/ Garbage cans
- Field Prep and track dragging for event
- Water / irrigation turned off during event
- Restrooms opened and secured as needed
- Weekend Crew point of contact during the event
- Use of sand for luminaries
- Use of two John Deere tractors

TOTAL PARK SERVICES COST

\$600.00

FIRE DEPARTMENT

- Fire site/ event inspection \$204.00
- Site Plan and Review
- Provision of First Aid by Fire Aids during event \$ No cost
- Provide Safe House towing and fuel \$50.00
- Volunteer Fire Aids \$ No cost
- Use of four MFD generators \$ No cost
- Picked up and delivered by volunteers
- Community Fire Aides supplies, food \$250.00
- Two Emergency Medical Technicians \$ No cost

TOTAL FIRE DEPARTMENT COST

\$504.00

POLICE DEPARTMENT

- Officers to escort revenues during event
- Police Command RV for banking
- Use of two 10x 20 canopies

TOTAL POLICE DEPARTMENT COST

\$300.00

TOTAL AMOUNT REQUESTED

BY AMERICAN CANCER SOCIETY

\$3,649.00

RECOMMENDATION: Approve the Milpitas Relay for Life request for fee waiver totaling \$3,649.00 from various City departments, including in-kind donation of equipment, supplies, and staffing for the June 25-26, 2004, Relay for Life event at the Milpitas Sports Center.

XVII. ORDINANCES (None)

XVIII. RESOLUTIONS

***8. DESIGNATE 2002 PARK BOND (PROPOSITION 40) FUNDS FOR ATHLETIC COURT REHABILITATION AND ADOPT RESOLUTIONS AUTHORIZING GRANT APPLICATIONS (STAFF CONTACT: BLAIR KING, 586-3060)**

BACKGROUND: The City of Milpitas has \$453,761 available for park improvements from the 2002 Resources Bond Act (Proposition 40). The Council was initially advised of the pending availability of these funds in August 2002, when it was asked to allocate funds under the 2000 Park Bond (Proposition 20). At that time, the Council considered a ranked list of potential projects and directed that the 2000 Park Bond funds be spent on the highest rated need, the rehabilitation of playground equipment and improved handicapped access at Hall, Dixon Landing, Foothill, and Pinewood Parks. The second highest priority project was the rehabilitation and resurfacing of outdoor athletic courts, e.g. tennis and basketball courts.

Consistent with the Council's previous consideration, it is now recommended that the Council allocate the 2002 Park Bond funds to the rehabilitation and resurfacing of outdoor athletic courts.

Milpitas has approximately 194,866 sq. ft. (4.47 acres) of athletic court surfaces including tennis, basketball, and handball courts. Athletic courts at Pinewood, Gill, and Dixon Landing Parks have recently been resurfaced. Courts at Hall, Yellowstone, and Calle Oriente Parks need rehabilitation and repair. Assessments by staff and the public indicate these surfaces are in poor condition and some courts may require reconstruction. Like road surfaces, the cost to rehabilitate athletic court surfaces increase with time. Expending a relatively smaller amount of money now achieves the same results as spending a greater amount of money in the future.

In October 2001, Planning, Recreation, and Public Works staff began to list possible projects for Park Bond expenditures. In total, close to 75 different park and open space needs were listed. Staff considered need, previous efforts, and other available funding sources to develop the following ranking of projects for Park Bond funding: (1) Park Playground Rehabilitation, Safety, and Accessibility; (2) Athletic Court Resurfacing; (3) Off-Leash Dog Park; (4) Alviso Adobe Renovation and Site Improvements; (5) Sports Center; and (6) Trail Program.

If the Council should choose not to use Proposition 40 funds to rehabilitate and resurface athletic courts, staff recommends the rehabilitation of the Cardoza Park playground as an alternative project. Cardoza Park is the last park that still requires playground safety improvements. Currently, it is planned to rehabilitate Cardoza Park as a part of the Sports Center project. If the Sports Center project should be delayed, it is likely that a stand-alone playground safety and handicapped accessibility project for Cardoza Park will be proposed.

On Monday, January 5, 2003, the Parks, Recreation, and Cultural Resources Commission voted unanimously to recommend that the 2002 Park Bond funds be used for an athletic court resurfacing project.

The 2002 Park Bond grants come from two components, the Per Capita Program and the Roberti-Z'berg-Harris (RZH) Block Grant Program. With the passage of AB 1747 in 2003, no match is required for either grant. However, if needed, additional money may be requested from the Park fund in order to achieve a fully funded project.

According to procedural guidelines, the City Council must first adopt resolutions authorizing application for these grant funds. This allows the state to encumber these funds on behalf of the City of Milpitas.

RECOMMENDATION: Designate the use of the 2002 Park Bond funds (Proposition 40) for athletic court rehabilitation and adopt resolutions authorizing the application for grant funds under the Roberti-Z'berg-Harris Block Grant and the Per Capita Grant Program.

***9. ADOPT RESOLUTION AUTHORIZING EXECUTION OF THE PROGRAM SUPPLEMENTAL AGREEMENT NO. M 001 TO ADMINISTERING AGENCY-STATE AGREEMENT NO. 04-5314 FOR BERRYESSA CREEK TRAIL, REACH 3 (PROJECT NO. 5074) (STAFF CONTACT: CAROL RANDISI, 586-2601)**

BACKGROUND: On June 4, 2002, the City of Milpitas entered into Administering Agency-State Agreement No. 04-5314 with the California Department of Transportation to receive Federal Transportation Enhancement Activities (TEA) funds in the amount of \$375,000 for Berryessa Creek Trail, Reach 3 for the construction phase of the project. The City of Milpitas, as the Administering Agency, is required by the California Department of Transportation to authorize execution of the Program Supplement Agreement No. M 001, accept and comply with the Special Covenants or Remarks set forth in the Program Supplement Agreement, and delegate authorization to execute the agreements. Invoices for reimbursement cannot be processed until the agreement is fully executed.

RECOMMENDATION: Adopt resolution authorizing execution of the Program Supplemental Agreement No. M 001 to Administering Agency-State Agreement No. 04-5314, subject to approval as to form by the City Attorney.

***10. ADOPT RESOLUTION GRANTING INITIAL ACCEPTANCE: SBWR M-2/M-3 (PROJECT NO. 6093) (STAFF CONTACT: JOE EZEKEKE, 586-3316)**

BACKGROUND: This project to install reclaimed water lines in Central Milpitas and the area of the Great Mall was awarded to Preston Pipelines, Inc. on November 20, 2001. The City's contractor has completed the project. Therefore, an initial acceptance may be granted and the contractor's faithful performance bond may be reduced to \$ 352,197.71, which is 10% of the contract amount.

RECOMMENDATION: Adopt resolution granting initial acceptance subject to the usual one-year warranty period and reduction of the faithful performance bond to \$ 352,197.71.

XIX. BIDS AND CONTRACTS

11. APPROVE CONSULTANT AGREEMENT WITH THOMAS SHANKS CONSULTING TO PREPARE AND IMPLEMENT AN ETHICS PROGRAM, INCLUDING TRAINING FOR CITY COUNCIL CANDIDATES, ELECTED OFFICIALS, COMMISSIONERS, AND SENIOR MANAGEMENT STAFF (STAFF CONTACTS: TAMBRI HEYDEN, 586-3280 AND STEVE MATTAS, 586-3040)

BACKGROUND: At the September 2, 2003 City Council meeting, the Community Advisory Commission (CAC) presented a recommendation based on one of their 2003 work plan tasks – an analysis of campaign ethics. The CAC's recommendation, which the Council supported, was a) to prepare a code of ethics that would apply to Council candidates, elected officials, commissioners and management staff, and b) to employ the services of a qualified professional to lead ethical conduct workshops for the purpose of code preparation and training. Hence, a request for proposals (RFP) for this work was prepared and release on November 7, 2003 to seven organizations and institutions believed to specialize in this type of work.

Dr. Shanks, a professor at Santa Clara University and an ethics consultant with his own, one-person firm submitted a proposal. It was the only response received in response to the city's RFP. A team of staff that included a CAC representative, scored the proposal, conducted an interview with Dr. Shanks, and performed reference checks. Also, the team contacted those groups that received the RFP, but did not respond, to learn that they either could not perform this kind of specialized work, or could not perform the work timely enough to meet the city's ambitious deadline. Therefore, on December 16th, staff contacted Dr. Shanks to begin contract negotiations.

Included in the Council's agenda packet is a draft contract that has resulted from those negotiations and contains a scope of work (Exhibit A) and schedule (Exhibit B). The highlights of the scope include code preparation that will begin in March 2004, after conducting a stakeholder report and awareness survey, and will be completed in May 2004. To ensure that campaign candidates are trained well in advance of the November 2004 election, training will be phased and tailored to the two types of group. The first phase is a series of campaign ethics workshops to be held between June and August 2004, prior to the election, for campaign candidates, their staff and interested volunteers and citizens. The second phase is a series of ethics code workshops held after the election, during November and December 2004, for elected officials, commissioners, and senior management staff. As an alternative to implementing an enforcement mechanism, a post-election assessment meeting will be convened, after which the

consultant's final task – a final report will be due the end of January 2005. The total cost of this project is an amount not to exceed \$21,960.

The scope of work and schedule have been reviewed by the CAC at their January 7, 2004 meeting. The CAC recommends approval of the scope and schedule and further requests to be represented on the steering committee that will be formed to provide guidance to the City staff project manager(s). Additional CAC monitoring of the contract will occur through regular updates at their monthly meetings.

RECOMMENDATION: Authorize the City Manager to execute the consultant agreement with Tom Shanks Consulting in an amount not to exceed \$21, 960.

***12. APPROVE AGREEMENT AMENDMENT AND BUDGET APPROPRIATION:
CAROLLO ENGINEERS, WELL UPGRADE PROJECT (PROJECT NO. 7076)
(STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: On November 4, 1997, the City Council approved an agreement with Carollo Engineers to provide design services for the subject project. This project will construct a new potable water supply well for the purpose of supplying water in combination with the existing Pinewood Well in times of emergency. The new well will be located at the end of East Curtis Avenue within the City Park to be constructed by the Parc Metropolitan development.

The Valley Transportation Authority (VTA) requested that Milpitas revise the project due to a location conflict with the conceptual plan for the extension of BART. The VTA has agreed to reimburse the City for the cost to redesign the location of the well and well building not-to-exceed \$140,000. A budget appropriation for this change is necessary.

Staff also recommends this project include provisions to monitor and pace well water flows entering the City water distribution system in order to better monitor and adjust for water quality. This monitoring and pace system has been requested by the Department of Health Services as a condition of permit issuance for operation of the well.

An agreement amendment is proposed with the City's design consultant for these additional services. The fee for these additional design services is not-to-exceed \$185,000.00, which is considered reasonable for the work involved. Funds are available in the project budget.

RECOMMENDATION:

1. Approve agreement amendment with Carollo Engineers in the amount of \$185,000.00, and authorize the City Manager to execute the amendment subject to approval as to form by the City Attorney.
2. Approve budget appropriation of \$140,000 to provide for the VTA requested design change.

***13. APPROVE AGREEMENT TO PROVIDE TECHNICAL CONSULTING SERVICES TO
THE CENTRAL CONTRA COSTA SANITARY DISTRICT (STAFF CONTACT: BILL
MARION, 586-2701)**

BACKGROUND: The City has over the past several years developed considerable expertise in the area of Geographic Information Systems (GIS). Other local government agencies are seeking to develop GIS capabilities and have approached the City for assistance. One such agency is the Central Contra Costa Sanitary District. After reviewing our current capabilities and the requirements provided by the Central Contra Costa Sanitary District, it was determined that City staff could provide the required services. This project involves a pilot conversion of 200 maps with the option for a follow-on conversion project for which the District would pay up to \$15,000 for services.

RECOMMENDATION: Authorize the City Manager to execute an agreement with the Central Contra Costa Sanitary District for the provision technical consulting services, subject to approval as to form by the City Attorney.

***14. APPROVE AGREEMENT WITH TOWILL INC. FOR UPDATE OF THE CITY AERIAL
ORTHOPHOTO (STAFF CONTACT: BILL MARION, 586-2701)**

BACKGROUND: As part of the Geographic Information System (GIS) project, aerial photography of the City was accomplished in 1999. This photography served as the basis for the development of the GIS basemap and other products. The air photo has been invaluable to the City for economic development purposes and has been used by the Planning, Engineering and Building Departments for numerous projects. Since 1999, a number of major development

projects have been completed and the 1999 air photo requires update. Towill Inc., completed the 1999 aerial photography and is able to re-utilize ground survey points and digital terrain models that they developed for the 1999 project. Use of this existing work will result in savings of approximately \$25,000. As projects such as the Mid-Town Plan, Elmwood development, Dixon/Highway 880 Overcrossing and Highway 880/237 Interchange proceed, the photo will require update. In addition to a 2004 update, the Towill proposal includes provisions for periodic updates for specific project areas through 2006. At this time, staff is recommending completion of a 2004 update and will evaluate the additional phases at a later date. Funding for this update is available in CIP No. 8112 Geographic Information System.

RECOMMENDATION: Authorize the City Manager to execute an agreement with Towill Inc., for orthophotography in an amount not to exceed \$63,200, subject to approval as to form by the City Attorney.

XX. CLAIMS AND DEMANDS (None)

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 3, 2004, AT 7:00 P.M.**